

Message

From: Peck, Michelle [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F495967A393940EF9F9C2EC37D875B9F-KNABB, MICH]
Sent: 4/2/2018 4:29:40 PM
To: Seltzer, Jeffrey (DOEE) [jeffrey.seltzer@dc.gov]; Champion, Jonathan (DOEE) [jonathan.champion@dc.gov]; Onyullo, George (DOEE) [george.onyullo@dc.gov]; Dunne, Ed (DOEE) [ed.dunne@dc.gov]
CC: Sincock.Jennifer@epa.gov; MacKnight, Evelyn [macknight.evelyn@epa.gov]
Subject: Court Decision in Anacostia Trash TMDL Lawsuit
Attachments: 2018-03-30 Trash TMDL Ruling.pdf

Hi folks,

Attached is the court's decision in the Anacostia trash TMDL lawsuit. Unfortunately, the court ruled in the favor of the plaintiffs and found that the term "maximum load" has a plain and unambiguous meaning under *Chevron* step 1, and therefore, EPA lacked authority to approve the TMDL because it was expressed as a reduction or removal rather than as a "maximum load" as interpreted by the court. The TMDL has been remanded back to EPA and stayed vacatur until EPA (working with DOEE and MDE) approves a replacement TMDL or disapproves this TMDL and establishes its own TMDL. There is no hard deadline for EPA approval/disapproval.

Let me again express our sincere gratitude for all the work DOEE undertook to support EPA in the lawsuit.

We will be reaching out separately to set up a conference call to discuss next steps. We are hoping to schedule it for early next week. Please feel free to contact us in the meantime if you would like to discuss.

Thanks,
Micka

Micka Peck

Physical Scientist
Office of Standards, Assessment, and TMDLs
EPA Region III
1650 Arch St, 3WP30
Philadelphia, PA 19103
(215) 814-5192
peck.michelle@epa.gov